

DD/S&T #5692.781

John Kampiles

OGC 78-8242
13 December 1978

OLC #78-3029/29

MEMORANDUM FOR: Director of Central Intelligence

THROUGH : Deputy Director of Central Intelligence

FROM : Anthony A. Lapham
General Counsel

SUBJECT : Response to Letter from Judge in Kampiles
Case

1. Action requested. Your signature on the attached letter to Judge Phil M. McNagny, Jr., U.S. District Court for the Northern District of Indiana.

2. Background. Judge McNagny, who was the presiding judge at the recently completed espionage trial of William Kampiles, has written you a letter dated 20 November 1978 listing and commenting on what he terms "some of the more obvious shortcomings" in CIA's security and document control procedures which came to light in the course of the trial. The letter is sharply critical of the Agency, with the judge declaring that he was "appalled to learn of the slipshod practices and lack of security that prevailed in at least that part of the Agency to which Kampiles was assigned."

3. Supporting data. The fact that Judge McNagny has chosen to send a letter of this kind is unusual and somewhat remarkable in itself, especially since normal judicial decorum calls for a judge to refrain from making any extra-judicial public statements whatsoever concerning evidence presented in a case of this nature. In this regard, it must be noted that Kampiles' lawyer has already indicated his intention to appeal the conviction; moreover, Judge McNagny himself is still closely involved in the case since he has yet to pronounce sentence on Mr. Kampiles (sentencing is scheduled for 22 December). Furthermore, it is not clear what manner of response that he wishes from you or, indeed, whether he expects a reply at all since the judge closes the letter by merely stating he "thought you should be informed of the above testimony...because the newspapers are very much aware of the testimony." Insofar as the "shortcomings" listed in the letter are themselves concerned, most of the substantive criticism (i.e., the dozen additional unaccounted for Manuals, the lack of regular inventories, etc.) cannot easily

OGC Has Reviewed

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be disputed, although one could legitimately question the relevance or factual basis of some of the other "evidence" Judge McNagny has cited.

4. On balance, therefore, I believe that under the circumstances it would be unwise and unproductive for you to engage in a point-by-point colloquy or debate with Judge McNagny over the specific matters raised in his letter, especially since, as indicated above, it is difficult to strenuously quarrel with his most substantive criticisms. Nevertheless, while I think that a low-key, gracious acknowledgment of the letter is certainly in order, it also seems to me that Judge McNagny's communication provides you with an excellent opportunity to seize the offensive by placing these widely reported gaps in CIA security and document control procedures into proper perspective. To that end, I have prepared a somewhat lengthy proposed reply to the judge (Option A attached) in which you respectfully but forcefully point out to him that:

a) heightened general security consciousness inside CIA has been one of your major priorities since becoming DCI and that you have already initiated a number of specific steps to tighten security within the Agency and the Intelligence Community;

b) the obvious remaining problems in the system which were brought to light during the trial have spurred an even more intensive review of our document control and inventory practices;

c) notwithstanding the above, it must be recognized that recording and accounting for the exact locations at any given time of each of the millions of sensitive compartmented documents currently in existence within CIA would involve a logistical task of monumental proportions in terms of money and manpower;

d) even if such a system could be put into effect, one could reasonably question whether expending the massive amount of resources necessarily involved would be truly cost-effective given the fact that the possibility of a Kampiles-like theft (which is only the second case of espionage by a CIA employee in history) could never be absolutely eliminated in any case; and

e) one must also recognize that a rigidly-administered inventory system along the lines suggested

in his letter could actually be counterproductive in that it could have the unintended effect of discouraging individuals who have a real need and use for key reference materials like the Manual from having ready access to it and devoting the necessary time to study and assimilate its contents.

5. Despite these observations, the proposed response emphasizes at several points that you are not attempting to justify or rationalize the obvious lapses which resulted from the way that the [redacted] Manuals have been accounted for and secured to date. Instead, you advise Judge McNagny that you are bringing these countervailing considerations to his attention in order to provide him with some perspective on the welter of factors which must be weighed and to impress upon him that, notwithstanding your continuing and even more intensive interest in improved security and document control procedures, you nevertheless must make in the final analysis difficult and necessarily pragmatic assessments regarding the acceptable lengths to which meaningful improvements in the system can be effectuated without inhibiting or detracting from your other equally critical statutory responsibilities as DCI. 25X1

6. Should you prefer a different approach, I have also prepared an alternative response (Option B attached), which is in the nature of an acknowledgment without much in the way of elaboration.

7. Recommendation. That you sign one of the two attached letters to Judge McNagny. I prefer Option A.

[redacted] 25X1
ANTHONY A. LAPHAM

Att. [redacted] 25X1

CONCUR: [redacted]

Deputy Director for Science and Technology

CONCUR: [redacted]

Deputy Director for Administration

All portions are "Unclassified."



Washington, D.C. 20505

22 DEC 1978

The Honorable Phil M. McNagny, Jr.
United States District Court
Northern District of Indiana
Hammond, Indiana 46325

Dear Judge McNagny:

This is in response to your letter of 20 November 1978 in which you expressed your concern and dismay over lapses in this Agency's security procedures and practices that came to light during the recently completed espionage trial of William P. Kampiles.

Let me say at the outset that I greatly appreciate the fact that you took the time and effort to share your observations and concerns with me. I made it a point to keep closely apprised of the status and progress of this case from the time that Mr. Kampiles first came under suspicion through the course of his trial and ultimate conviction. Like you, I was disturbed by the security shortcomings that were disclosed during the trial. Even prior to these disclosures, I had set in motion a comprehensive review on a priority basis of all aspects of existing security arrangements in order to improve and tighten to the maximum extent possible the control of and access to classified documents within this Agency. To this end, I had already directed that a number of concrete steps be undertaken internally to foster what I have termed "heightened general security consciousness" both within CIA and throughout the U. S. Intelligence Community. Briefly, these steps include:

1. initiation of research to enhance security movement of classified information via tamper-resistant security containers and to preclude unauthorized reproduction of documents via special paper, special inks, and other techniques;
2. a rigorous staff personnel security reinvestigation program;

3. expanded security education and reindoctrination efforts throughout the Agency;

4. maintaining a freeze since 1 June 1977 on the total number of sensitive clearances throughout the Intelligence Community;

5. initiating a program to revalidate outside security clearances by effecting zero-based reviews in Intelligence Community and commercial contractor facilities;

6. ordering increased spot checks of briefcases, packages and parcels at all Agency facilities in the Washington, D. C. Metropolitan area; and

7. tighter record-keeping requirements and control over all classified documents being carried out of the Agency for official purposes.

The Kampiles trial served to emphasize the need for continuing and even more intensive efforts on the security front. In the wake of the trial, I have given instructions that will lead to the formulation and implementation of more stringent safeguards governing the production, marking, classification, reproductions, transmission, inventory and overall control of classified documents.

Having said all this, however, I must also note several countervailing considerations that are relevant to any assessment of CIA's overall security and document control practices and that were not mentioned during the trial. I hasten to add that my commentary in this regard is not offered in order to excuse some of the deficiencies in our system that were underscored by the Kampiles prosecution but only to put these matters into a fuller perspective.

To begin with, it must be recognized that there is an enormous volume of highly classified material circulating within CIA; leaving aside those millions of pieces of paper which in the normal course of business are now classified at the "Confidential" or "Secret" level, it is estimated that there are well in excess of 100 million pages of material (including those comprising the [] Manual) deemed of a particularly sensitive nature so as to warrant special compartmentalization and handling within the Agency.

25X1

Accordingly, implementing a system whereby every single document containing information considered to be of such an especially sensitive nature is traceable to an exact location

or individual at any given time would clearly require a logistical and record-keeping effort of truly prodigious proportions in terms of personnel and financial resources. The resources at my disposal are finite and as head of this Agency I must make sometimes extremely difficult practical decisions as to the most efficient and productive means of channelling these resources so that the nation's (and the taxpayers') interests are best served. Viewed in that light, I must say in all candor that a comprehensive and exhaustive document control and inventory system along the lines suggested in your letter gives me pause for at least two separate but related reasons.

First, if this Agency is to properly perform its mission of intelligence collection and analysis in the most coherent and systematic way possible, it is imperative that a free and unfettered exchange of views and available data constantly take place among various Agency and U. S. Government components. Basic reference documents like the [redacted] System Technical Manual are expressly developed for all of those duly cleared individuals in the Intelligence Community whose official tasks would be facilitated by a detailed knowledge of or access to the capabilities and product of such a unique and invaluable intelligence collection system. Accordingly, it would seem best in the normal course of events for those of us in responsible management positions to encourage the use of key reference materials such as the [redacted] by all U. S. Government employees with a demonstrated reason or need to know their contents. Unduly rigid record-keeping or access requirements could have the effect of discouraging or blocking the intended and beneficial use of such materials, and in net result the intelligence process would be weakened even if security were to be enhanced.

25X1

25X1

Secondly, the adoption of even the tightest and most draconian document control system would not eliminate, and might not markedly reduce, the chances that an Agency employee in the future will be able to steal and deliver to a foreign power highly classified materials if the employee is firmly determined to take such action. In this connection, one must recognize that, absent further rigid controls on access to photocopying machines, an individual properly in possession of a document could simply and quickly duplicate it and return the original to its proper location. Moreover, even if the access to these machines could be somehow regulated, a miniature camera could theoretically be employed to photograph a document on microfilm with the film thereafter easily hidden on an individual's physical person.

I should emphasize that my assessment concerning the possible occurrence of a future incident of this kind

involving a CIA employee is not based on any fatalistic or cynical recognition that another such case is bound to arise in any event; on the contrary, I should note in this regard that in the more than three decades of its existence the Agency has employed thousands upon thousands of honorable, dedicated men and women from all walks of life, many of whom have served at great personal risk and have been prime targets for recruitment by any number of hostile intelligence services and only two of whom, Mr. Kampiles being the second, have ever been charged with espionage. These facts seem to me in large measure to constitute a testimonial to the general trustworthiness of our personnel as well as to the effectiveness of this Agency's long-standing procedures for pre-security checks of employees on board.

In closing, let me again express my gratitude for your thoughtful and useful letter. Your concerns are certainly legitimate, and I want to assure you that the lessons of the Kampiles case will not be lost or forgotten. At the same time, however, I trust you will understand why I must balance my long-standing and continuing insistence on tight security and document control with a realistic and necessarily pragmatic assessment of the acceptable lengths to which reforms in our system can be extended without hampering or detracting from my other equally serious statutory obligations.

Yours sincerely,



STANSFIELD TURNER



Washington, D.C. 20505

The Honorable Phil M. McNagny, Jr.
United States District Court
Northern District of Indiana
Hammond, Indiana 46325

Dear Judge McNagny:

This is to acknowledge your letter of 20 November 1978 in which you expressed your concern and dismay over various shortcomings in this Agency's general security and document control procedures that came to light during the recently completed espionage trial of William P. Kampiles.

I appreciate the fact that you took the time and effort to share your observations with me. The enhancement of security has been among my major priorities since becoming Director of Central Intelligence, and a number of important initiatives have already been taken in this regard, without reference to the Kampiles case. As a result of that case, I have ordered an even more intensive review that hopefully will lead to a correction of the deficiencies noted in your thoughtful letter.

Yours sincerely,

STANSFIELD TURNER

SUBJECT: Response to Letter from Judge
in Kampiles Case

OGC:Jar:jg

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